

# The Disclosure Statement

U.S. Bankruptcy Court, Northern District of Florida

Welcome to the debut issue of *The Disclosure Statement*; your hub for information about goings on in the U.S. Bankruptcy Court for the Northern District of Florida. We hope you enjoy this content-rich newsletter and welcome your feedback and input.

## NextGen is Live at FLNB!

The weekend of December 3-5, 2021, our IT staff worked nearly around the clock to upgrade the electronic filing system to the "Next Generation" of CM/ECF ("NextGen"). We join over 170 other federal courts who are live on NextGen, providing practitioners and filers easier access to federal courts around the nation using their PACER login.

We would like to shout a

huge "**thank you**" to attorneys **India Footman**, **Karin Garvin**, and **Sharon Sperling** who gave up their time that Saturday afternoon to help us test the case opening and trustee-specific functions of CM/ECF after the upgrade.

For more information on the changes that accompanied NextGen, including training materials and information on how to request access to e-file\* at our court, visit the

[NextGen Information](#) page of our website.

*\*E-filing access is only available to attorneys admitted to practice in the U.S. District Court for the Northern District of Florida, their registered Filing Agents, and creditor filers. Self-represented parties may not file electronically through CM/ECF NextGen at this time.*



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### Special points of interest:

- "Notice of Filing" event deactivated due to misuse
- Pro Bono Honor Roll for 2021
- COVID Court Operations Update

## News and Views from the Bench

Hon. Karen K. Specie

### How is it 2022 already????

“It is *virtually* impossible to believe that it is now 2022.” This statement is not as humorous as it would have been if the Omicron variant of COVID-19 was not spreading like wildfire in this District, as well as the rest of Florida and the US.

Until last week, our Court was making plans to reopen the Tallahassee and Pensacola Clerk’s offices to full-time, in person operations. Further, we had scheduled live and hybrid trials in Tallahassee beginning in early February. We are in the process of re-noticing those trials as fully virtual and have no immediate plans to return to live or hybrid hearings. We will continue to handle cases, proceedings, and dockets remotely via CourtCall and Zoom, and will return to hybrid and live trials and hearings in certain cases as soon as it is safe to do so. Although 2021 was challenging, to say the least, here are some things to celebrate as we begin 2022:

### SUCCESSFUL LAUNCH OF “NextGen”

Our IT Staff worked long hours for *months* behind the scenes to prepare our Court and YOU for NextGen. Most instrumental on our success were Bruce Justham, Director of Information Technology, Julie Gibson, Data Quality Analyst/Trainer and Nick Thrasher, Application Administrator. Not only did these individuals work tirelessly on this project, but they had to work on NextGen implementation a total of three times on three different platforms: Test, Train, and Live servers...plus replication servers (i.e., backup servers).

In addition, many thanks to Karin Garvin, Sharon Sperling, and India Footman, who helped ensure NextGen would work smoothly by volunteering to file cases and pleadings on the Saturday afternoon before NextGen went live.

### LOCAL RULES CHANGES

Our Local Rules Committee has been working diligently on another round of proposed Local Rules changes designed to enable cases and proceedings to go even more smoothly. Watch for the opportunity to comment on the newest changes soon.

We are grateful to the past Chair, Trevor Thompson, for his herculean efforts cleaning up and finalizing the most recent Local Rules changes. We welcome new committee Chair, Byron “Trey” Wright, and thank him, Mr. Thompson, all other Committee members, Clerk of Court, Traci Abrams, and Tammi Boswell, Director of Court Operations, for their dedication and hard work. Current Committee Members include Mr. Wright and:

Mary Beth Colón (Secretary)  
India Footman

Karin Garvin  
Roland Kiehn

Michael Niles  
Logan Sliva

Sharon Sperling

### BRIEFER BRIEFS PLEASE!

On August 9, 1940, with the Battle of Britain raging, Winston Churchill penned an important memo on brevity in which he stated:

*To do our work, we all have to read a mass of papers. Nearly all of them are far too long. This wastes time, while energy has to be spent in looking for the essential points. I ask my colleagues and their staffs to see to it that their reports are shorter . . . the saving in time will be great, while the discipline of setting out the real points concisely will prove an aid to clearer thinking.<sup>1</sup>*

Bankruptcy Judge Erik Kimball, of the Southern District of Florida, recently published a similar plea for

<sup>1</sup> Winston Churchill, *Brevity: Memorandum by the Prime Minister* (Aug. 9, 1940).

plea for briefer, clearer pleadings. We reprint his article with permission beginning on page 4.

### OUR GOALS FOR 2022:

**GOAL 1** - Streamline by creating more approved form motions and orders. *Suggestions are welcome.*

**GOAL 2** - Return Court operations and hearings to "normal," with hybrid hearings and an eventual return to in-person hearings. Meanwhile: *Carefully read notices, docket entries, and orders setting (or re-setting) hearings to see whether a hearing will be live, hybrid, or telephonic.*

**GOAL 3** - An in-person NDFLBBA Seminar this fall.

**GOAL 4** - Implement a Student Loan Mediation Program (thanks to our new Student Loan Mediation Program Committee).

**MOST IMPORTANT GOAL:** that each of you, your families, and staff stay safe and healthy, and enjoy the new year. All who have practiced in the Northern District in 2021, with the help of your staff, have adapted beautifully to our new "normal."

**Thank you** for the cooperation, patience, professionalism, and courtesy you have demonstrated during this past year. We will continue striving to ensure that cases and proceedings are handled timely and efficiently while all of us remain safe and healthy. I wish everyone a happy and healthy 2022 and pray that we can see each other in person again soon.

### CM/ECF Training

PACER and NextGen CM/ECF training resources, including documentation, learning aids, and "how to" videos are available through PACER at <https://pacer.uscourts.gov/help>.

Our NextGen CM/ECF training database is not accessible without a free "PACER Training" account. Visit <https://train-pacer.psc.uscourts.gov/pscof/registration.jsf> to register for a training account. Once registered, you will need to submit an "E-File Registration" request with our court, found under the "Maintenance" tab in "Manage My Account." The Court will approve your request then use your training PACER credentials to login to the CM/ECF [NextGen TRAIN](#) database.

If you are new to electronic case filing in CM/ECF, **we suggest that case openings be performed during normal business hours so that we may provide assistance**, if needed. Please call us at 888-765-1752 or email our [Help Desk](#) if you have questions.

### CARES Act Provisions Expired December 27

The temporary bankruptcy provisions of the Consolidated Appropriations Act of 2021 (the CARES Act) due to expire on December 27, 2021, were not extended. Accordingly, the *Motion for Discharge per 11 U.S.C. § 1328(i)* and *Supplemental Proof of Claim for Forbearance Claim* filing events in CM/ECF have been deactivated and are no longer available for use.

### Local Rules Revision Public Comment Period

We are in the final stages of preparing proposed revisions to the Northern District of Florida Local Bankruptcy Rules for public review and comment. Once posted to the Court's website, we will accept comments on the proposed revisions for 30 days. A red-line comparison of the proposed revisions will be provided along with instructions for submitting comments. Please watch your email and our website for this announcement.



*From the December 2021 issue of the **Courthouse Beacon News**  
by the U.S. Bankruptcy Court for the Southern District of Florida. Reprinted with permission.*

## **EPK CORNER**

**By: Hon. Erik P. Kimball**

Imagine this is an article entitled *Wiley Champion, Esq. Instructs How To Win Your Case Every Time*. Enticing for sure. You start reading. The opening paragraph needlessly re-states the title, needlessly names the author, who is already mentioned in the title, and then defines the author with a short name that is unnecessary and distracting. The second, third and fourth paragraphs include a lot of confusing history. You have no idea why you are reading that history because there is no context other than the title of the article. On the second page you learn of some other people, entities and happenings. You are not sure why the author mentions those things — they are just more seemingly unrelated facts — but you hope eventually there will be a point to what you are reading. It would certainly be nice to learn how to win your case every time. Finally, on page 3, you get your first hint of the thesis of the article. It is in the middle of the second paragraph on that page. Now it sort of makes sense. You go back and re-read the first two pages hoping to understand how they fit in. Still, it is a little confusing. So you continue. Near the end, there is a sort-of summary followed by a conclusion written in a way to suggest that it logically follows from everything before it, but that connection is vague. You finish the article not quite knowing what you have read. You remember that you are attending a talk by Mr. Champion and hope to learn more then.

This is my experience reading a substantial portion of the motions heard on my motion calendar. I have written about this before. This time I will try to provide some useful rules.

1. **Do Not Blindly Follow Traditional Form.** “A foolish consistency is the hobgoblin of little minds,” wrote Ralph Waldo Emerson 180 years ago. Just because you have always started a motion with the formal introduction popular before you were born does not mean it remains (or ever was) useful. Some examples are helpful.

I often see something like this:

Gargantuan Lender Far Fetched Trust, Distant And Complex Loan Pool For Rural Farmer Borrowers, More Gibberish And Endless Words, Series 487 (“GLFFTDACLPPFRFBMGAEW Series 487”) moves this Honorable Court, after notice and hearing, for an order terminating, annulling, modifying or conditioning the automatic stay under 11 U.S.C. § 362(d), in connection with litigation pending before the 15th Judicial Circuit in and for Palm Beach County, Florida, in which debtor Always About To Fail, LLC (the “Debtor” or “Always About To Fail”) is a defendant among others, or, in the alternative, dismissing the chapter 11 case of the Debtor pursuant to 11 U.S.C. § 1112(b), with prejudice for 2 years, and for other relief the Court deems just, and seeks an expedited hearing thereon.

With that opening, all I know is that some entity with an endless name wants relief from stay or dismissal of the case. I have no idea why they want those remedies, why they want an expedited hearing, or even what their relationship is with the debtor or the case.

I would prefer to see this:

Gargantuan Lender\*, a secured creditor with a mortgage on the debtor’s principal office, seeks relief from the automatic stay to continue with a foreclosure action that has been pending for 5 years and was previously interrupted by the debtor’s two prior chapter 11 petitions. In the alternative, movant seeks dismissal of this case with extended prejudice of 2 years because the debtor filed this case in bad faith for the primary purpose of yet again stymying movant’s foreclosure case. In order to permit movant to

*Continued on page 5*

proceed to trial in the foreclosure action after a state court calendar call scheduled for January 3, 2022, movant asks the Court to set this motion for expedited hearing no later than December 27, 2021.

[\*Gargantuan Lender's full name appears in a footnote, a rare appropriate use of a footnote in a motion.]

From that text I know that the movant is a mortgagee that has been attempting to foreclose on the debtor's primary office for 5 years, and that the debtor filed two prior petitions that slowed the foreclosure. The movant explains that it wants relief from stay in time to set a foreclosure trial at an upcoming calendar call, and that it wants to dismiss the bankruptcy case with prejudice because of the perceived bad faith of the debtor. In short, I know a lot more about why the motion was filed. Then, as I read the remainder of the motion, I will better understand why I am reading about the history of the parties, the litigation in the state court, and the like.

2. **Defined Terms Are Not Your Friend.** Lawyers love defined terms. I have seen opening paragraphs in motions and responses with 5 or more defined terms. Not only does that make the text difficult to read, it is almost never necessary. In orders I write myself, after naming an individual I typically refer to them as Ms. So-and-so and Mr. Whoever, without including one of those ("Mr. Whoever") after the initial instance of the name. If you have named an individual, you do not need to define them. It is OK to refer to them with a salutation and surname. If the matter involves more than one person with the same surname, include a first initial. Try to avoid referring to the debtor as the "Debtor" as it is impersonal. Likewise, I disfavor referring to parties as plaintiff and defendant unless this makes for a cleaner presentation in light of the parties' actual names. Even then, once you have named the parties and referred to them as plaintiff and defendant, there is no need to create defined terms or capitalize those words. For corporate entities as well, I shy away from using formal defined terms. If the movant is Carnivore Enterprises, LLC, it is OK to use "Carnivore Enterprises" or just "Carnivore" without adding a specific definition as the reference is obvious. Defined terms are appropriate only where they are necessary to avoid confusion, such as when corporate entities use similar names and you refer to them repeatedly.

3. **Headings Are Your Friend.** Even in a relatively short motion, headings can be helpful. By including a few brief headings, you give me a road map for your presentation that hopefully illuminates the summary in your opening paragraph. Headings facilitate my understanding of what you are asking for and why you believe you are entitled to the requested relief. If you feel compelled to set out details for a series of documents or contracts, such as loan and security agreements, complete with parties, dates and the like, please include a heading entitled "Loan and Security Documents" or something similar and I will know to skim that section. It is almost never necessary to include such detail in a motion because those facts are rarely in dispute. If you know there is likely to be a dispute about some aspect of documentation underlying a claim, then focus on that. For example, if you know a debtor will dispute perfection of a secured claim, then address that briefly in the motion.

4. **Be Brief and Direct.** Many years ago, I received a motion filed by a dean of the bankruptcy bar who later became my partner (and is now retired). His request for relief arose in a very large case. He represented a creditor with an enormous claim based on a series of complex transactions. His client's contracts were difficult to explain even in person. His motion was 5 pages long. No sentence exceeded 10 words and he used only active verbs. His opening paragraph identified his client and its relationship with the debtor and others, explained what he wanted from the court, cited a relevant statutory provision, and explained why his client was entitled to what it wanted. He then presented his argument in a series of short paragraphs organized in a logical way. His request for relief seemed the inevitable outcome of the presentation. I wrote a brief cover memo and distributed a copy of that motion to every litigation associate in my firm. "This is how you should write," I said. Even now, when our case filings are down, we are ranked 6th of the 94 districts in caseload per judge. I currently have about 2,800 cases and more than 90 adversary proceedings. In the coming year we expect those numbers to at least double. As you know, I read everything ahead of my motion calendar, often including items previously filed in the relevant dockets. It is in your clients' best interests to make that work easier. In every recent motion calendar there has been at least one instance in my notes where I wrote something like "relief requested unclear until paragraph 14 on page 6." Please don't be that lawyer.

### **"Notice of Filing" Event Deactivated**

Recent review of the generic "Notice of Filing" event showed that the event was frequently being used to file pleadings and documents for which there is a specific filing event. Use of the correct filing event ensures that many required subsequent actions are performed such as fee collection, setting or removing flags, setting or terminating deadlines, notification to the Courtroom Deputy of an emergency matter or request for an expedited hearing, correctly populating the hearing calendars, and many, many other possible "background" tasks.

With over 2200 filing events in our CM/ECF, we have the bases covered for most routine filings and we add new events regularly as we are advised of the need for those not-so-frequent filings. Please use the key-word Search feature in the CM/ECF menu bar to locate a filing event that fits your needs. If you need assistance locating a filing event, please contact our Help Desk at 888-765-1752 or [CMECF.HelpDesk@flnb.uscourts.gov](mailto:CMECF.HelpDesk@flnb.uscourts.gov) for assistance. Be advised that failure to use the correct filing event can result in a Submission Error Notification requiring that you refile your pleading correctly.

### **It's a Wrap! 2021 by the Numbers**

As with the other bankruptcy courts in the nation, bankruptcy case filings in the Northern District of Florida continued to decline in 2021. We had a total of 1625 bankruptcy cases opened over the 12-month period ending December 31, 2021; this number being 37% below the 12-month period ending December 31, 2020. Of these case openings, 51% were in the Pensacola division. Other FLNB activity for the year included:

<b>Bankruptcy Case Openings</b>	<b>Gainesville</b>	<b>Pensacola</b>	<b>Tallahassee</b>	<b>Panama City</b>	<b>District Total</b>
Ch 7	188	697	307	109	<b>1301</b>
Ch 11	5	9	14	8	<b>36</b>
Ch 12	1	1	0	0	<b>2</b>
Ch 13	60	116	92	18	<b>286</b>
Ch 15	0	0	0	0	<b>0</b>
<b>Total</b>	<b>254</b>	<b>823</b>	<b>413</b>	<b>135</b>	<b>1625</b>

- 32 cases reopened
- 1811 cases closed
- 50 adversary proceedings initiated
- 3925 motions filed
- 2904 hearings scheduled
- 66,552 docket entries made

The monthly and year-to-date caseload statistics for our court and a "Filings by County" table are posted to our website by the 15th of each month. Official numbers for national bankruptcy filings will be published by the Administrative Office of the United States Courts at [www.uscourts.gov](http://www.uscourts.gov) when available.

"What you think, you become. What you feel, you attract. What you imagine, you create." - Buddha

## Amended Standing Order No. 11 Re Electronic Case Filing Effective December 2, 2021

Chief Judge Karen K. Specie signed Amended Standing Order #11 Regarding Electronic Case Filing which addresses updates to the *Administrative Procedures for the Filing, Signing, and Verification of Pleadings and Documents by Electronic Means* (the "[Administrative Procedures](#)"). These updates were effective December 6, 2021 and include the following:

- Registration information updated in accordance with NextGen CM/ECF requirements.
- Definitions and updated formatting instructions for matrix submissions
- The reference to the ECF Central software was removed. The program is no longer in service. All proposed orders must be uploaded directly through CM/ECF.
- Various terminology updates throughout (e.g., different terms used to describe CM/ECF users were replaced with the term "System Participant").

The Administrative Procedures were updated numerous times in 2021. Please take a few minutes to refresh your knowledge of the requirements and responsibilities of e-filing access in our court.

### Pro Bono Honor Roll

We take pleasure in recognizing the efforts of attorneys who provided legal assistance, without compensation, to debtors in our district in 2021. These *pro bono* services greatly benefit our nation's bankruptcy system and all of its components. We thank these volunteers for their current and continued support in serving the people of the Northern District of Florida:

Amy Logan Sliva  
Sliva Law Firm, LLC

Byron Wright  
Bruner Wright, P.A.

Kevin Forsthoefel  
Ausley & McMullen, P.A.

India Footman  
Footman Law Firm, P.A.

Martin Lewis  
Lewis & Jurnovoy, P.A.

Sharon Sperling  
Law Office of Sharon T. Sperling

### COVID Court Operations Update

#### Delayed Reopening of Standard Intake Operating Hours

Given the abrupt increase in positive COVID-19 diagnoses in Leon and Escambia counties in recent weeks, the return to standard Clerk's Office Intake counter hours in Tallahassee and Pensacola has been delayed. In-person assistance at the Clerk's Office is reserved for payments and emergency matters on Tuesdays,

Wednesdays, and Thursdays from 9:00 a.m. to noon, local time. Please note:

- All visitors must wear a mask while in the courthouse lobbies or other public spaces per District Court [order](#).
- We encourage you to ask administrative and procedural questions by telephone or email. (*Clerk's Staff cannot*

*provide legal advice.*)

- Filings by self-represented parties are accepted by email, or fax, or drop box, or mail. ***Please choose only one method of filing.***



<https://www.flnb.uscourts.gov/news/covid-19-court-operations-update>



U.S. Bankruptcy Court, Northern District of Florida

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For questions or comments about this newsletter, please email [Julie.Gibson@flnb.uscourts.gov](mailto:Julie.Gibson@flnb.uscourts.gov)

The difficult is what takes a little time; the impossible is what takes a little longer.  
~ [Fridtjof Nansen](#)

**2022 Federal Holidays**

Our offices will be closed in observance of the following federal holidays:

**Monday, February 21**  
Washington's Birthday

**Monday, May 30**  
Memorial Day

**Monday, June 20\***  
Juneteenth National Independence Day

**Monday, July 4**  
Independence Day

**Monday, September 5**  
Labor Day

**Monday, October 10**  
Columbus Day

**Friday, November 11**  
Veterans Day

**Thursday, November 24**  
Thanksgiving Day

**Monday, December 26\***  
Christmas Day

\*Observance of a holiday that falls on a Saturday or Sunday pursuant to 5 U.S.C. 6103(b) and/or Exec. Ord. 11582, Feb. 11, 1971.

**Contact Us**

- Carolyn Romine, Case Administrator ..... (850) 470-3060
- Elizabeth Bolton, Case Administrator ..... (850) 470-3060
- Janet Weems-Cainion, Courtroom Deputy & Calendar Clerk ..... (850) 521-5009
- Jestin Hawkins, Case Administrator ..... (850) 521-5016
- Latonia Isom, Court Operations Specialist ..... (850) 521-5012
- Sloane Akinsanya, Case Administrator ..... (850) 521-5010
- Tammi Boswell, Director of Operations ..... (850) 521-5011
- Clerk's Office Main Line ..... (850) 521-5001
- Help Desk ..... (850) 521-5001 or (888) 765-1752
- Help Desk Email ..... [CMECF\\_HelpDesk@flnb.uscourts.gov](mailto:CMECF_HelpDesk@flnb.uscourts.gov)

*The Clerk's Office phones are answered from 9:00 a.m. until 4:00 p.m., Monday through Friday, except on federal holidays or other days the court is closed. The Case Administrators may assist with procedural or CM/ECF questions. **We are not permitted to answer legal questions or to provide any guidance as to the content or types of documents that may be required.***